NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LEOPOLD CARDENAS,

        Petitioner - Appellant,

    v.

RICHARD L. MORGAN,

        Respondent - Appellee.

No. 04-35849

D.C. No. CV-03-05036-FVS

MEMORANDUM [*]

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, District Judge, Presiding

Submitted February 13, 2006[**]

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

    Washington state prisoner Leopold Cardenas appeals from the district

court's order denying his 28 U.S.C. § 2254 habeas corpus petition challenging his

jury conviction for two counts of robbery while armed with a deadly weapon. We

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    [*]   This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

    [**]   This panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction under 28 U.S.C. §§ 1291 and 2253, and we affirm the district court.

We reject Cardenas' contention that his due process rights were violated when the prosecution failed to disclose evidence that could be used to impeach a key witness. The state courts' determination of this issue was not an unreasonable application of clearly established federal law. *See* 28 U.S.C. § 2254(d); *see also Weighall v. Middle*, 215 F.3d 1058, 1062 (9th Cir. 2000). As the testimony of Cardenas and another individual provided sufficient evidence to impeach this witness, the undisclosed evidence was immaterial and cumulative. *See United States v. Vgeri*, 51 F.3d 876, 880 (9th Cir. 1995); *see also Ortiz v. Stewart*, 149 F.3d 923, 936 (9th Cir. 1998) (same).

To the extent that Cardenas's brief raises uncertified issues, we construe his contentions as a motion to expand the Certificate of Appealability, and deny the motion. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED